SUPREME COURT OF THE UNITED STATES

No. 11, ORIGINAL.—OCTOBER TERM, 1956.

United States of America, Plaintiff, *v.* State of Louisiana.	On Motion for Judgment.

[June 24, 1957.]

PER CURIAM.

The Court has before it the motions of the United States for judgment and of Louisiana for leave to take depositions. As a result of its consideration of these matters, including the representations made by the State of Texas in its *amicus curiae* brief, the Court is of the opinion that the issues in this litigation are so related to the possible interests of Texas, and other States situated on the Gulf of Mexico, in the subject matter of this suit, that the just, orderly, and effective determination of such issues requires that they be adjudicated in a proceeding in which all the interested parties are before the Court.

Accordingly, to that end, the Court, acting pursuant to Rules 9 (2) and (6) of its Revised Rules, Rule 21 of the Federal Rules of Civil Procedure, and the general equity powers of the Court, grants leave to each of the States of Alabama, Florida, Mississippi, and Texas to intervene in this suit within 60 days from the date of this opinion, with leave to the United States, within 60 days thereafter, to file an amended or supplemental complaint adding as parties to this suit any of such States as shall not have so intervened. The bringing in of such additional parties shall be without prejudice to the present motions of the United States and Louisiana, subject only to such terms as justice may require *vis-a-vis* the additional parties. Meanwhile such motions are continued.

THE CHIEF JUSTICE and MR. JUSTICE CLARK took no part in the consideration or decision of this case.

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Extracts from Outer Continental Shelf Lands Act 29

Note: Pertinent parts of the Statutes and Congressional Acts relating to Alabama's historical boundary have been set forth in the argument.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1956

NO. 11, ORIGINAL

UNITED STATES OF AMERICA

Plaintiff

v.

STATE OF LOUISIANA

INTERVENTION OF STATE OF ALABAMA WITH SUPPORTING BRIEF AND ARGUMENT

Now comes the State of Alabama and intervenes in the above-styled suit pursuant to leave granted by the Supreme Court of the United States by decree dated June 24, 1957.

CLAIM OF STATE OF ALABAMA

The State of Alabama claims all lands, minerals, natural resources and other things, permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward from the coast line of the State of Alabama, three marine leagues into the Gulf of Mexico. Coast line, as above used, means the line of ordinary low water along that portion of the coast which is in direct contact with the sea and the line marking the seaward limit of inland waters.

QUESTION PRESENTED

Is the State of Alabama entitled against the United States of America, by reason of ownership, or paramount rights or otherwise, to the lands, minerals, natural resources and other things underlying the hereinabove described waters?

BASIS FOR CLAIM

Alabama claims by virtue of the Submerged Lands Act, Public Law 31, 83d Congress, 1st Session, approved May 22, 1953, 67 Stat. 29; the decisions of the Supreme Court of the United States in **United States v. California,** 332 U. S. 19; **United States v. Louisiana,** 339 U.S. 699; **United States v. Texas,** 339 U.S. 707 and **Alabama v. Texas** and **Rhode Island v. Louisiana, et al.,** 347 U.S. 272; its Constitution or laws prior to or at the time Alabama became a member of the union, and by evidence of its historical boundaries.

RESERVATION OF CLAIMS

The State of Alabama presents its claim relying upon the comparatively recent decisions of the court as above set forth and the validity of the Submerged Lands Act as treated in **Alabama v. Texas** and **Rhode Island v. Louisiana.** If the court for any reason changes its former decisions and arrives at any other or different result, Alabama reserves the right to then present its claims under the law as then declared. Alabama does not question the validity of the Submerged Lands Act in this suit but claims under it.

Alabama urges the court to state, before taking evidence, whether or not it adheres to the **California, Louisiana** and **Texas** cases, supra, and whether or not

the rights of the interested states are derived solely from the Submerged Lands Act. To do so would chart the course, simplify the procedure and eliminate many alternative positions brought about by the uncertainty on the part of the states as to the present court's position on these matters.

ANSWER TO COMPLAINT OF UNITED STATES

FIRST

The complaint filed herein by United States of America, Plaintiff, against the State of Louisiana, makes no allegations directed specifically at the State of Alabama but all of the articles thereof except Article I. relating to jurisdiction, and Article III, relating to the decree of this Court in the case of **United States v. Louisiana,** 340 U.S. 899, contain allegations which expressly or by implication relate to or affect the claim of the State of Alabama, and the State of Alabama denies all of such allegations except as expressly admitted in this pleading.

SECOND

The State of Alabama has been advised by letter dated July 10, 1957, from J. Lee Rankin, Solicitor General, that after studying the per curiam order of this Court:

> "* * * it appears clear that regardless of whether individual states intervene, the United States will have to amend or supplement its complaint in No. 11 Orig. to include all lands and issues between the United States and additional parties."

and so the State of Alabama reserves the right to plead

further herein after the United States amends or supplements its complaint.

THIRD

More specifically answering the present complaint of the United States filed December 19, 1955, then No. 15 Original, October Term 1955, the State of Alabama says:

I

No answer is required to Article I.

II

Prior to the decision of this Honorable Court in **United States v. California,** 332 U.S. 19[1] there was no official recognition of any claim of the United States as against the states which compose it to submerged lands lying off the coast and that decision was that "the Federal Government rather than the state has paramount rights in and power over (the three mile belt) an incident to which is full dominion over the resources of the soil under that water area, including oil." The Submerged Lands Act[2] and the Outer Continental Shelf Lands Act[3] were passed by Congress and signed by the President in 1953, the first to confirm and establish the titles of the states and of the United States within the limits prescribed by the statute, and the second to provide for the jurisdiction of the United States over the submerged lands

1 67 S.Ct. 1658
Followed in U.S. v. Texas, 339 U.S. 707, 94 L.ed. 1221 U.S. v. La., 340 U.S. 899.

2 67 Stat. 29. 43 U.S.C. 1301.

3 67 Stat. 462. 43 U.S.C. 1332.

of the outer continental shelf, and the United States has no rights to the lands and natural resources in controversy except as set forth in said statutes, the assertions of the United States to the contrary notwithstanding. Accordingly, the State of Alabama denies that the United States has been or is now entitled to possession and dominion and power over the lands and minerals underlying the Gulf of Mexico except those extending seaward from a line three marine leagues from the coast as defined in the Submerged Lands Act.

III

Article III of the Complaint relates only to the State of Louisiana and requires no answer.

IV

Article IV in part relates to the release of a claim for money asserted by the United States against the State of Louisiana, as to which no answer is required by the State of Alabama. For the remainder of the Article, it is an attempt on the part of the United States to paraphrase the statements contained in the statutes referred to and requires no answer. Moreover the Submerged Lands Act recognized, confirmed and established title to and ownership of the submerged lands and natural resources in intervenor, the State of Alabama, and all states bordering the Gulf of Mexico, and released and relinquished unto said states all right, title and interest of the United States, if any it has thereto, within the states' historic boundaries but not beyond three marine leagues into the Gulf of Mexico from the coast.[1]

[1]Sec. 2 (b), 67 Stat. 29.

V

The allegations of Article V relate to the State of Louisiana but the general import thereof, if directed at the State of Alabama, is denied and intervenor avers that its southern boundary was established by its Constitution when admitted to the United States as six leagues from its shore into the Gulf of Mexico; that prior to the decision of this Honorable Court in United States against California and the Submerged Lands Act and the Outer Continental Shelf Lands Act, its southern boundary was coextensive with the southern boundary of the United States, but if said decision and said statutes have the effect of limiting the southern boundary of the State of Alabama, then pursuant thereto the boundary of the State of Alabama must extend three marine leagues into the Gulf of Mexico from its coast. Further answering said Article V, the State of Alabama says that if its territorial boundary does not extend three marine leagues into the Gulf from its coast, that distance is nevertheless the measure of the area within which the Submerged Lands Act establishes and confirms Alabama's claim to the lands and natural resources within the territorial limits of the United States or appertaining to the United States.

VI

Insofar as the State of Alabama is affected, the allegations of paragraph VI of the complaint are denied.

VII

Article VII of the complaint relates to a specific controversy between the State of Louisiana and the United States, with which specific acts the State of Alabama is not concerned. The State of Alabama admits there is a need to establish the rights of the respective parties and avers that such rights cannot be properly established until the claim of Alabama to all submerged lands and natural resources within three marine leagues from its coast is recognized.

VIII

There is no paragraph having the number VIII in the complaint but the eighth paragraph thereof is numbered IX.

IX

The State of Alabama accedes to the jurisdiction of this Court. The State of Alabama avers, however, that insofar as this is a controversy between the sovereign states of this Union and the Union itself, and inasmuch as the President of the United States and the Congress of the United States, through the Submerged Lands Act and the Outer Continental Shelf Lands Act, have asserted the extent of American territory and have asserted the measure within American territory and the rights appertaining to the American territory in which the states shall participate in the natural resources, the present controversy does not involve anything with which any foreign power can be concerned but is wholly an internal matter.

X

Further answering, the State of Alabama claims that its historic boundary extends into the Gulf of Mexico to a point which is more than three marine leagues from its coast line as more fully hereinafter shown.

WHEREFORE, the State of Alabama reserves the right to plead further herein after the United States amends or supplements its complaint, and the State of Alabama prays that a decree be entered herein decreeing that it is entitled to the lands and natural resources extending three marine leagues into the Gulf of Mexico from its coast and that an appropriate procedure be provided by this Court, whether in this Court or in a court of inferior jurisdiction or by special master, for the purpose of establishing the location of the said coast and a line three marine leagues into the Gulf therefrom.

ARGUMENT

The Supreme Court of the United States, after arguments from interested states presented orally and by briefs from some of the most distinguished lawyers in the world, considered the question of whether a state or the Federal Government had the paramount rights and power to determine in the first instance when, how and by what agencies, foreign or domestic, the oil and other resources of the soil of the marginal sea, known or hereafter discovered, may be exploited.

The court decided the question in **United States v. California,** 332 U.S. 19, as follows:

> "Now that the question is here, we decide for the reasons stated that California is not

> the owner of the three mile marginal belt along its coast, and that the Federal Government rather than the state has paramount rights in and power over that belt, an incident to which is full dominion over the resources of the soil under that area, including oil."

In **United States v. Louisiana,** 339 U.S. 699, the court said that the matter of state boundaries had no bearing on the problem of paramount rights in the marginal sea; that it is a national, not a state concern. National interests, national responsibilities, national concerns are involved. The problems of commerce, national defense, relations with other powers, war and peace focus there. National rights must, therefore, be paramount in that area. Ownership twenty-four miles seaward of the three-mile belt was denied.

To like effect was **United States v. Texas,** 339 U.S. 707. where such ownership was denied to Texas in the lands, minerals and other things underlying the Gulf of Mexico, lying seaward of the ordinary low-water mark on the coast of Texas and outside of the inland waters, extending seaward to the outer edge of the continental shelf.

In the **California** and **Louisiana** cases the decrees of the court specifically stated that the interested states were without title to the property in question, for instance in the **Louisiana** case, the decree states, in the first paragraph, that "The State of Louisiana has no title thereto or property interest therein." In the **California** case, the court carefully abstained from recognizing claim of ownership by the United States. This was emphasized when the court struck out the proprietary claim of the United States from the terms

of the decree proposed by the United States. This was pointed out by Mr. Justice Frankfurter in the **Texas** case.

The result is that the states had no title seaward of the ordinary low-water mark. In that area the United States has paramount rights as distinguished from ownership.

Then came the Submerged Lands Act and the **Alabama v. Texas** and **Rhode Island v. Louisiana** cases in which it was contended that these paramount rights could not be granted, or relinquished to the states by Congress. The right of Congress to do so, however, was upheld, the court stating:

> "The power of Congress to dispose of any kind of property belonging to the United States is vested in Congress without limitation."

If these decisions stand as the law of the land, Alabama's ownership or paramount rights seaward from the mean low-water mark must come from the Submerged Lands Act.

What then does Alabama have under the Act?

First: It has title to or paramount rights in and power over all lands, permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coast. This the United States concedes.

Second: It has the right to prove that the seaward boundary of Alabama provided by its Constitu-

tion or laws prior to or at the time such state became a member of the union was far enough out in the Gulf of Mexico to embrace three marine leagues into the Gulf from the coast line. In this event, Alabama will own or have the paramount rights in and power over the lands, minerals, natural resources and other resources within this three marine league belt.

Third: It has the right to prove that the State's seaward boundary extends beyond three geographical miles from the coast line, if it was so provided by its Constitution or laws prior to or at the time such state became a member of the union, or if such boundary has been approved by Congress prior to May 22, 1953. In such event, Alabama will own or have the paramount rights in and power over the lands, minerals, natural resources and other resources within the boundary so proven but not more than three marine leagues from the coast line. In other words, Alabama, depending upon proof, could have any given marginal seaward belt between three geographical miles from the coast line and three marine leagues from the coast line.

The United States admits that the states may make this proof but then makes the astounding claim that even if they do it is useless for even then the states can have only three geographical miles from the coast line.

To sustain this contention is to say that Congress deliberately did that which is meaningless, or that a letter from Secretary Dulles takes precedence over the Submerged Lands Act. Both contentions are utterly without merit and clearly untenable.

The claim of the United States, in which Secre-

tary Dulles' letter by inference is mentioned, is stated as follows:

> "Under the Submerged Lands Act, the location of the state boundary is left to be judicially ascertained. We consider it fundamental that the state boundary cannot be further seaward than the national boundary. The location of the national boundary is a political matter, to be determined by the political branches of the government; their determination regarding it is binding upon the courts and is subject to judicial notice. A formal declaration by the Department of State is the most appropriate source of information on this subject, and should be accepted as conclusive. Here, the Secretary of State has specifically declared that the national maritime boundary is and has always been at a distance of three miles, and no more, from the low-water mark and from the outer limit of inland waters along the coasts. The declaration is in accordance with a long line of diplomatic history, including both treaties and international correspondence, extending through the whole time of the nation's existence, and all of which is subject to judicial notice."

Little need be said to dispose of these contentions.

1. Congress is a political body with power and authority to fix boundaries; if the states' boundaries, depending upon proof, are extended three marine leagues from the coast line, then it necessarily follows

that the national boundary is extended also; a state cannot be partly within and partly without the union.

2. The Secretary of State is powerless to nullify an act of Congress.

3. If the contention of the United States is correct, then it must be said that Congress deliberately passed the Submerged Lands Act knowing that it was meaningless as to state ownership up to three marine leagues from the coast line.

4. The rights, which Congress granted to the states, are paramount rights which are extraterritorial in nature; state boundaries are important only to determine the extent of those rights into the Gulf of Mexico.

5. The United States has rights seaward beyond its boundaries and Congress invested the states with those rights not exceeding three marine leagues, upon proper proof as provided in the Submerged Lands Act.

6. Congress has authority to grant rights to the states, under waters beyond the national maritime boundary.

7. The Submerged Lands Act should be given application as provided by Congress and not application as provided by the Secretary of State.

It is respectfully submitted, therefore, that for some one or more of the above reasons, the contentions of the United States are legally unsound and should be rejected.

HISTORICAL BOUNDARIES

What are the historical boundaries of Alabama? Before admission to the union, Alabama was a territory established by an Act of Congress, dated March 3, 1817. 3 U. S. Statutes at Large, page 371.

In pertinent part, it provided the following:

> "That all that part of the Mississippi territory which lies within the following boundaries, to-wit: beginning at the point where the line of the thirty-first degree of north latitude intersects the Perdido River, thence east to the western boundary line of the State of Georgia, thence along said line to the southern boundary line to the State of Tennessee, thence west along said boundary line to the Tennessee River, thence up the same to the mouth of Bear Creek, thence by a direct line to the northwest corner of Washington County, thence due south to the Gulf of Mexico, thence eastwardly, including all the islands within six leagues of the shore, to the Perdido River, and thence up the same to the beginning, shall for the purpose of a temporary government, constitute a separate territory, and be called 'Alabama.' "

The above description was subsequently changed, as authorized by the Enabling Act for the admission of Alabama into the union, to provide a line from the northwest corner of Washington County "southwardly, along the line of the State of Mississippi to the Gulf of Mexico." 3 U.S. Statutes at Large, page 489. This

was done to avoid encroachment on the counties of Wayne, Greene and Jackson in the State of Mississippi.

The Enabling Act used the same description as the Act establishing Alabama as a territory and Alabama was admitted to the union by resolution of Congress approved December 14, 1819. 3 U.S. Statutes at Large, page 608. After the change in the southern boundary line as aforesaid, the following description of the boundaries of Alabama appeared in every Constitution of Alabama, including Section 37, Constitution of Alabama 1901:

> "The boundaries of this state are established and declared to be as follows, that is to say: Beginning at the point where the thirty-first degree of north latitude crosses the Perdido river; thence east, to the western boundary line of the State of Georgia; thence along said line to the southern boundary line of the State of Tennessee; thence west, along the southern boundary line of the State of Tennessee, crossing the Tennessee river, and on to the second intersection of said river by said line; thence up said river to the mouth of Big Bear creek; thence by a direct line to the northwest corner of Washington county, in this state, as originally formed; thence southwardly, along the line of the State of Mississippi, to the Gulf of Mexico; thence eastwardly, including all islands within six leagues of the shore, to the Perdido river; . . . "

On the 2nd day of March, 1867 (14 Stat. 428), an act was passed by Congress entitled, "An Act to provide for the more efficient Government of the Rebel

States." The Act declared that in these states, of which Alabama was one, there was no adequate protection for life or property; that it was for the federal government to enforce law and order until such time as state government could be established. These rebel states were divided into military districts and the President authorized to appoint military directors; these directors, or Governors, to have charge of their respective districts. These states were deprived of their representation in Congress until a proper state Constitution was adopted; that upon its approval by Congress, and upon the states' adoption of the Fourteenth Amendment to the Federal Constitution, they would be entitled to representation.

On March 23, 1867 (15 Stat. 2), the Congress passed an act entitled, "An Act supplementary to an Act entitled 'An Act to provide for the more efficient Government of the Rebel States,' passed March second, eighteen hundred and sixty-seven, and to facilitate Restoration."

This supplemental act required these states to adopt a state Constitution in conformity with the terms of the act; that after the state Constitution had been adopted by the Convention and ratified by the people, a copy should be sent to Congress, and, if the Congress approved, the state be declared entitled to representation, and her Representatives and Senators admitted to Congress.

On June 25, 1868 (15 Stat. 73), Congress passed an act entitled, "An Act to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida, to Representation in Congress." This act recited that these states had adopted Consti-

tutions in accordance with the Act of March 2, 1867. **Pope v. Blanton,** 10 F. Supp. 18.

The Supreme Court of Alabama, in **Irwin v. Mayor, Etc., of Mobile,** 57 Ala. 6, said:

> "What is known as the Constitution of 1868, did not become the Constitution of Alabama, or binding upon its citizens, until the same was approved by Congress. On the 25th day of June, 1868, the Congress of the United States, by the requisite majorities, passed over the veto of the President, the 'act to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida, to representation in Congress.' The preamble to said act recites that the people of said States had 'framed constitutions of State government which are republican, and have adopted said constitutions by large majorities of the votes cast at the elections held for the ratification or rejection of the same.' See 15 Stat. at Large, 73-4.
>
> "Prior to the passage of that act by Congress, it had been held by the officers in charge of the election and its returns, that the said constitution had not been adopted by the votes of the people of Alabama. Hence, we affirm that said constitution became operative and obligatory in Alabama, only on the 25th day of June, 1868."

The Constitution of Alabama, which was approved by Congress and which became operative and obligatory in Alabama on the 25th day of June, 1868,

contained, in pertinent part, the same description as the Enabling Act and all other Constitutions of the State of Alabama, namely "thence eastwardly, including all islands within six leagues of the shore, to the Perdido river."

Thus, before admission to the union, at the time of admission to the union, and subsequent to admission to the union, Congress has approved Alabama's southern boundary as including all islands within six leagues of the shore.

We are then brought to the construction or interpretation of what is meant by "including all islands within six leagues of the shore."

The Legislature of Alabama, by Act No. 77, General and Local Acts 1956, page 111, construed the above historical boundary of Alabama by providing, in pertinent part, as follows:

> "The Director of Conservation, on behalf of the State, is hereby authorized to lease, upon such terms as he may approve, any lands or any right or any interest therein under any navigable streams or navigable waters, bays, estuaries, lagoons, bayous or lakes, and the shores along any navigable waters to high tide mark, and submerged lands in the Gulf of Mexico **within the historic seaward boundary of this State, which is hereby declared to extend seaward six leagues from the land bordering the Gulf,** for the exploration, development and production of oil, gas and other minerals, or any one or more of them, on, in and under such lands; and such lands or interests therein for

such purposes shall be supervised and managed by the Department of Conservation." (Emphasis supplied)

This Declaration by the Legislature of Alabama was not an extension of the State's historical boundaries, but was instead its construction of what the description, describing the southern boundary of Alabama meant.

This is true also as to Act No. 158, General and Local Acts of Alabama 1956, page 24, wherein the historical seaward boundary of Alabama is declared to extend seaward six leagues from the land bordering the Gulf.

It is not necessary to determine in this suit whether the boundary is to be measured from the "land bordering the Gulf" as declared by the Legislature of Alabama, or from "the shore" as contained in all of Alabama's Constitutions, if indeed there is any difference in meaning in the language used. If there is a difference, six leagues seaward from either starting point will be sufficiently far distant to embrace three marine leagues from the coast line as provided in the Submerged Lands Act.

It is anticipated that the United States will claim in this case that "including all islands within six leagues of the shore," means the islands only and does not include all waters and submerged lands within six leagues of the shore. Congress was perfectly familiar with the **California, Louisiana** and **Texas** cases when it passed the Submerged Lands Act. It is only necessary, under that Act, to show that the states' boundaries extended seaward suffi-

ciently far distant to embrace three marine leagues from the coast line. When the extent of the boundaries is thus shown, the Submerged Lands Act itself releases and relinquishes to the interested states title to and ownership of the lands beneath navigable waters within the states' boundaries, and the natural resources within such lands and waters, up to three marine leagues.

Under the ruling in the **Texas** case, it was Alabama's entry into the union, on equal footing with other states, that caused the loss of title to and ownership of the lands beneath navigable waters within six leagues of the shore. Alabama had such ownership as a territory and even if it is necessary to prove ownership of the submerged lands within six leagues of shore, that burden is met by showing the description of Alabama's southern boundary as a territory. Section 4 of the Submerged Lands Act provides for proof of a seaward boundary beyond three geographical miles, if it was so provided by a state's constitution or laws **prior to** as well as at the time of entry into the union.

No one has yet suggested, however, why Congress should think that islands six leagues from shore should be part of the territory belonging to Alabama, but the submerged lands connecting the islands with the mainland should not.

If the great right of dominion and ownership in this submerged land were to have been severed from the sovereignty, and withheld from Alabama, such should have been clearly indicated by appropriate terms; and would not have been left for inference from ambiguous language. **Martin v. the Lessee of Waddell,** 16 Pet. 367, 413-17. 10 L. Ed. 997, 1014-15; **Pollard**

v. Hagan, 44 U.S., 3 How. 212, 11 L. Ed. 565; **Massachusetts v. New York,** 271 U.S. 65, 89, 70 L. Ed. 838, 849. Certainly some measure of sovereignty belongs to Alabama as a territory. **People of Porta Rica v. Rosaly y Castillo,** 227 U.S. 270; **Kawananakoa v. Polyblank,** 205 U.S. 349, 352.

In **Mahler v. Transportation Company,** 35 N. Y. Reports, page 352, the question presented and its answer is stated as follows:

> "The question whether the injury to the intestate was committed within our jurisdiction, depends on the course of the New York boundary line from Fisher's Island to Lyon's Point. The court below held that this line must be so run as to exclude the waters of the sound below low water mark. The statute defining the boundaries of the State does not indicate the course of the line from Sandy Hook to Lyon's Point, otherwise than by declaring that it is to be run 'in such manner as to include Staten Island and the islands of meadow on the west side thereof, Shooter's Island, Long Island, the Isle of Wight (now called Gardiner's Island), Fisher's Island, Shelter Island, Plumb Island, Robin's Island, Ram Island, the Gull Islands, and all the islands and waters in the bay of New York and within the bounds above described.' (1 R. S., 65.)
>
> "It seems quite obvious that a direction, so to run the line as to include the islands within the bounds of the State, is not a direction

so to run it as to exclude the intermediate waters. . . .

"The description purports to define the exterior lines of a continuous territorial domain; and not to declare the respective boundaries of detached and separate tracts, divided from each other by the ocean, and connected only by the bonds of political union.

"Every intendment, therefore, is in favor of the natural and obvious construction, that the lines indicated constitute a continuous boundary, at no point diverging from our possessions, to traverse either lands or waters which we do not own."

To like effect is the statement contained in 81 C. J. S., States, Section 18, page 914:

". . . Where a state line is described to run so as to include all of the islands in a body of water, such a description is not a direction so to run it as to exclude the intermediate waters; the boundary is not to be determined by running the boundary along the coastline at low-water mark until it reaches points opposite the several islands and thence running lines to and around such islands and returning along the same lines to the points of departure from the low-water mark, excluding all the water between the islands, and between them and the low-water mark on the opposite coastline; rather the line is to be a continuous line inclosing all of the specified islands without traversing lands or waters

not included in the territorial limits of the state."

The description of Alabama's southern boundary does not designate the islands by name but includes all within six leagues of shore. The proper and only reasonable conclusion, therefore, is that the line runs southwardly along the line of the State of Mississippi to a point in the Gulf of Mexico six leagues from shore and thence eastwardly six leagues from and parallel to the shore to a point where said line intersects an extension of the Perdido River into the Gulf of Mexico, thence northwardly along the Perdido River extended to the point of beginning. All islands within this boundary are owned by the State of Alabama.

That such description is correct is given support by Louisiana's contention in **Louisiana v. Mississippi,** 202 U.S. 1; by Mississippi's contention in the same case and by the opinion of the court.

Louisiana contended that the southern boundary of Mississippi would start "westward from a point 18 miles south of the coast line," and Mississippi, that she was given by Act of Congress, approved March 1, 1817, "all lands under the waters south of her well-defined shore line to the distance of six leagues from said shore at every point between the Alabama line and the most eastern junction of Pearl river with Lake Borgue, including all islands within said limit."

The pertinent part of the Court's opinion is as follows:

"The maps show that there is a chain, not of

alluvial, but of sea-sand islands, running from the west shore of Mobile bay, in the state of Alabama, westward to and inclusive of Cat island, in the state of Mississippi. This chain forms the southern boundary of Mississippi sound, and the islands are all relatively the same distance from the shore of the states of Mississippi and of Alabama. They, beginning at the eastern end, are Dauphin, Petit Bois, Horn, Ship, and Cat islands, and there are some other islands lying within this chain. If Congress referred to these islands as being thus within 6 leagues of the shore, when the act creating the state of Mississippi was passed, it follows that there would be no conflict with prior existing boundaries of the state of Louisiana, particularly if the deep-water sailing channel line be taken as the correct boundary between the states. And when Congress created a separate territorial government for the eastern part of Mississippi territory and called it Alabama, by the act of March 3, 1817 (3 Stat. at L. 372, Chap. 59), it used the same language concerning the western and southern boundary of the territory: 'Thence due south to the Gulf of Mexico, thence eastwardly, including all the islands within six leagues of the shore to the Perdido river and thence up same to the beginning.' It seems obvious to us that it was to this chain of islands that Congress referred when it admitted Mississippi into the Union, and that it had no intention whatsoever of giving Mississippi any claim of ownership in the sea-marsh islands,

> which had been previously granted to the State of Louisiana."

Some reference has been made to the case of **Bosarge, et al. v. State,** 23 Ala. App. 18, 121 So. 427, in which the Court of Appeals of Alabama stated the following:

> "We think, and hold, that since Dauphine Island is admittedly one of the 'islands within six leagues of the shore,' referred to in the above description, and since there is no other such island lying south of Dauphine Island, necessarily the southern boundary line, or coast line, of Dauphine Island became the southern boundary line of Alabama."

This case was a criminal case in which Bosarge, a resident of Alabama, was convicted of catching or attempting to catch salt water shrimp within the waters of the State of Alabama, or those subject to the territorial jurisdiction of the State, by the use of a seine, etc. The above quoted part of the decision of the Court of Appeals was wholly unnecessary to a decision of the case because the statute, alleged to have been violated, was within the police power of the state; whether the place where the act was committed was within its boundaries or not was immaterial. **Skiriotes v. Florida,** 313 U.S. 69. Besides not being a decision by the highest court of Alabama, the Court of Appeals was in error, as the United States well knows, in stating that there was no other island lying south of Dauphine Island.

CONCLUSION

Alabama does not present herewith the supporting evidence and data relative to its claim. This cannot be properly done within sixty days from June 24, 1957. If the Court, however, deems such supporting proof to be proper, Alabama requests full opportunity to present the same to the Court.

Alabama contends, however, that from the descriptions alone of the southern boundaries of the various states; namely, Texas, Louisiana, Mississippi, Alabama and Florida; that each is entitled, under the Submerged Lands Act, to three marine leagues from its coast line.

Respectfully submitted,
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Representing James E.
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Of Counsel

PROOF OF SERVICE

I, John Patterson, Attorney General of Alabama, certify that on the ..... day of August 1957, I mailed copies of the foregoing petition of intervention and brief in support thereof to the Attorney General and the Solicitor General of the United States, respectively, at the Department of Justice Building, Washington, D. C., and to the Attorneys General of the States of Texas, Louisiana, Mississippi and Florida.

JOHN PATTERSON
Attorney General of Alabama

APPENDIX

1. SUBMERGED LANDS ACT OF MAY 22, 1953

67 Stat. 29, 43 U.S.C. 1301, et seq.

Title 1, Sec. 2, 43 U.S.C. 1301 (a) (2), (b), (c), (e):

When used in this chapter

(a) The term "lands beneath navigable waters" means—

(2) All lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coast line of each such State and to the boundary line of each such State where in any case such boundary as it existed at the time such State became a member of the Union, or as heretofore approved by Congress, extends seaward (or into the Gulf of Mexico) beyond three geographical miles, and

(b) The term "boundaries" includes the seaward boundaries of a State or its boundaries in the Gulf of Mexico or any of the Great Lakes as they existed at the time such State became a member of the Union, or as heretofore approved by the Congress, or as extended or confirmed pursuant to section 1303 of this title but in no event shall the term "boundaries" or the term "lands beneath navigable waters" be interpreted as extending from the coast line more than three geographical miles into the Atlantic Ocean or the Pacific Ocean, or more than three marine leagues into the Gulf of Mexico;

(c) The term "coast line" means the line of ordinary low water along that portion of the coast which

is in direct contact with the open sea and the line marking the seaward limit of inland waters;

(e) The term "natural resources" includes, without limiting the generality thereof, oil, gas, and all other minerals, and fish, shrimp, oysters, clams, crabs, lobsters, sponges, kelp, and other marine animal and plant life but does not include water power, or the use of water for the production of power;

Title II Sec. 3, 43 U.S.C. 1311:

(b) (1) The United States releases and relinquishes unto said States and persons aforesaid, except as otherwise reserved herein, all right, title, and interest of the United States, if any it has, in and to all said lands, improvements, and natural resources;

Title II. Sec. 4, 43 U.S.C. 1312:

§ 1312. Seaward boundaries of States

The seaward boundary of each original coastal State is approved and confirmed as a line three geographical miles distant from its coast line or, in the case of the Great Lakes, to the international boundary. Any State admitted subsequent to the formation of the Union which has not already done so may extend its seaward boundaries to a line three geographical miles distant from its coast line, or to the international boundaries of the United States in the Great Lakes or any other body of water traversed by such boundaries. Any claim heretofore or hereafter asserted either by constitutional provision, statute, or otherwise, indicating the intent of a State so to extend its boundaries is approved and confirmed, without prejudice to its claim, if any it has, that its boundaries extend

beyond that line. Nothing in this section is to be construed as questioning or in any manner prejudicing the existence of any State's seaward boundary beyond three geographical miles if it was so provided by its constitution or laws prior to or at the time such State became a member of the Union, or if it has been heretofore approved by Congress. May 22, 1953, c. 65. Title II, §4, 67 Stat. 31.

2. OUTER CONTINENTAL SHELF LANDS ACT OF AUGUST 7, 1953

67 Stat. 462, 43 U.S.C. 1331, et seq.

Sec. 2, 43 U.S.C. 1331 (a):

When used in this subchapter—

(a) The term "outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 1301 of this title, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

Sec. 3, 43 U.S.C. 1332:

§ 1332. Congressional declaration of policy; jurisdiction; construction

(a) It is declared to be the policy of the United States that the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this subchapter.

(b) This subchapter shall be construed in such manner that the character as high seas of the waters

above the outer Continental Shelf and the right to navigation and fishing therein shall not be affected. Aug. 7, 1953, c. 345; § 3, 67 Stat. 462.

Sec. 4 (a) (1) 43 U.S.C. 1333;

§ 1333. Laws and regulations governing lands—Constitution and United States laws; laws of adjacent States; Publication of projected State lines; restrictions on State taxation and jurisdiction.

(a) (1) The Constitution and laws and civil and political jurisdiction of the United States are extended to the subsoil and seabed of the outer Continental Shelf and to all artificial islands and fixed structures which may be erected thereon for the purpose of exploring for, developing, removing, and transporting resources therefrom to the same extent as if the outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State: Provided, however, that mineral leases on the outer Continental Shelf shall be maintained or issued only under the provisions of this subchapter.

In the Supreme Court of the United States

OCTOBER TERM, 1957

No. 11, Original

UNITED STATES OF AMERICA, LAINTIFF

v.

STATES OF LOUISIANA, TEXAS, MISSISSIPPI, ALABAMA AND FLORIDA

AMENDED COMPLAINT

Pursuant to the leave of the Court granted by its order of June 24, 1957, as amended by the order of October 22, 1957, the United States of America, by its Solicitor General, brings this suit against the defendants, the States of Louisiana, Texas, Mississippi, Alabama and Florida, and for its causes of action states:

FIRST CAUSE OF ACTION

(Against the State of Louisiana)

I

The jurisdiction of this Court is invoked under Article III, Section 2, Clause 2, of the Constitution of the United States, and Title 28, United States Code, Section 1251. (b) (2).

446975—57——1

II

On June 5, 1950, the United States was and, except as set forth in Paragraph IV hereof, has ever since been and now is entitled to exclusive possession of and full dominion and power over the lands, minerals and other things underlying the Gulf of Mexico, extending seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Louisiana to the edge of the continental shelf; and the State of Louisiana did not have on June 5, 1950, and, except as set forth in Paragraph IV hereof, has never since had and does not now have any title thereto or property interest therein.

III

On December 11, 1950, in the case of *United States* v. *Louisiana,* 340 U. S. 899, this Court entered its decree enjoining the State of Louisiana from taking or removing any petroleum, gas, or other valuable mineral products from the lands underlying the Gulf of Mexico, extending seaward twenty-seven marine miles from the ordinary low-water mark and from the outer limit of inland waters on the coast of Louisiana, and enjoining the State from carrying on any activities for that purpose upon or in that area, except upon authorization of the United States, and directing the State of Louisiana to account to the United States for all sums derived by the State from that area after June 5, 1950, which were properly owing to the United States under that decree, the opinion entered by this Court in that case on June 5, 1950, 339 U. S. 699, and applicable principles of law.

IV

On May 22, 1953, by Public Law 31 of the 83rd Congress, known as the Submerged Lands Act, 67 Statutes at Large 29, the United States granted to the State of Louisiana the title to and ownership of the submerged lands and natural resources lying in the Gulf of Mexico within the boundaries of said State, but not extending seaward more than three geographic miles from the ordinary low-water mark or from the outer limit of inland waters unless the boundary of said State as it existed when the State became a member of the Union, or as approved by Congress, extended more than three geographic miles therefrom, and not extending seaward more than three marine leagues therefrom in any event; and by said Act the United States released its claim for money or damages arising out of any operations by the State of Louisiana or under its authority in the area so granted.

V

When the State of Louisiana became a member of the Union its boundary did not extend into the Gulf of Mexico more than three geographic miles from the ordinary low-water mark or from the outer limit of inland waters, and the Congress of the United States has never approved a boundary for said State extending into the Gulf of Mexico more than three geographic miles from the ordinary low-water mark or from the outer limit of inland waters.

VI

By reason of the foregoing, the United States is now entitled to exclusive possession of and full dominion and power over the lands, minerals and other things underlying the Gulf of Mexico, lying more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Louisiana, extending seaward to the edge of the continental shelf, and is entitled to an accounting for all sums of money derived by the State of Louisiana after June 5, 1950, from the area lying more than three, and less than twenty-seven, geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Louisiana, which are properly owing to the United States under the decree entered by this Court on December 11, 1950, in the case of *United States* v. *Louisiana,* 340 U. S. 899.

VII

The State of Louisiana claims some right, title or interest adverse to the United States in the lands, minerals and other things underlying the Gulf of Mexico, lying more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Louisiana, has invited bids for leases of submerged lands within said area, has threatened to bring suits against lessees of the United States to enjoin them from operating therein, and has not accounted to the United States for all or any sums of money derived after June 5, 1950, from the area lying more than three, and less

than twenty-seven, geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Louisiana.

VIII

There is urgent need for exploration and development of the mineral resources of the area described in Paragraph VI hereof. On August 7, 1953, by Public Law 212 of the 83rd Congress, known as the Outer Continental Shelf Lands Act, 67 Statutes at Large 462, Congress declared the existence of such need and provided that it should be met by the issuance of mineral leases in that area by the Secretary of the Interior to private operators. The Secretary of the Interior has issued such leases of tracts in the area in dispute, and is desirous of continuing to do so. By its conduct described in Paragraph VII hereof the State of Louisiana has interfered with and obstructed, and is interfering with and obstructing, the orderly and effective exploration, leasing, and development of said mineral resources, and will continue to do so and will thereby cause great and irreparable injury to the United States unless the rights of the United States are declared and established by this Court. The United States has no other adequate remedy.

IX

The original jurisdiction of this Court is invoked because there is urgent need for prompt and final settlement of the controversy, and because the fundamental question in issue is the width of the marginal

sea within the jurisdiction of the United States, which involves inquiry into and application of the foreign policy of the United States in a matter of peculiar importance and delicacy and is most appropriately a subject for original adjudication by this Court.

SECOND CAUSE OF ACTION

(Against the State of Texas)

I

The jurisdiction of this Court is invoked under Article III, Section 2, Clause 2, of the Constitution of the United States, Title 28, United States Code, Section 1251 (b) (2), and this Court's order entered in this case on June 24, 1957.

II

On June 5, 1950, the United States was and, except as set forth in Paragraph IV hereof, has ever since been and now is entitled to exclusive possession of and full dominion and power over the lands, minerals and other things underlying the Gulf of Mexico, extending seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Texas to the edge of the continental shelf; and the State of Texas did not have on June 5, 1950, and, except as set forth in Paragraph IV hereof, has never since had and does not now have any title thereto or property interest therein.

III

On December 11, 1950, in the case of *United States* v. *Texas*, 340 U. S. 900, this Court entered its decree enjoining the State of Texas from taking or removing any petroleum, gas, or other valuable mineral products from the lands underlying the Gulf of Mexico, extending seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Texas to the outer edge of the continental shelf, and enjoining the State from carrying on any activities for that purpose upon or in that area, except upon authorization of the United States, and directing the State of Texas to account to the United States for all sums derived by the State from that area after June 5, 1950, which were properly owing to the United States under that decree, the opinion entered by this Court in that case on June 5, 1950, 339 U. S. 707, and applicable principles of law.

IV

On May 22, 1953, by Public Law 31 of the 83rd Congress, known as the Submerged Lands Act, 67 Statutes at Large 29, the United States granted to the State of Texas the title to and ownership of the submerged lands and natural resources lying in the Gulf of Mexico within the boundaries of said State, but not extending seaward more than three geographic miles from the ordinary low-water mark or from the outer limit of inland waters unless the boundary of

said State as it existed when the State became a member of the Union, or as approved by Congress, extended more than three geographic miles therefrom, and not extending seaward more than three marine leagues therefrom in any event; and by said Act the United States released its claim for money or damages arising out of any operations by the State of Texas or under its authority in the area so granted.

V

When the State of Texas became a member of the Union its boundary did not extend into the Gulf of Mexico more than three geographic miles from the ordinary low-water mark or from the outer limit of inland waters, and the Congress of the United States has never approved a boundary for said State extending into the Gulf of Mexico more than three geographic miles from the ordinary low-water mark or from the outer limit of inland waters.

VI

By reason of the foregoing, the United States is now entitled to exclusive possession of and full dominion and power over the lands, minerals and other things underlying the Gulf of Mexico, lying more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland water on the coast of Texas, extending seaward to the edge of the continental shelf, and is entitled

to an accounting for all sums of money derived therefrom by the State of Texas after June 5, 1950, which are properly owing to the United States under the decree entered by this Court on December 11, 1950, in the case of *United States* v. *Texas,* 340 U. S. 900.

VII

The State of Texas claims some right, title or interest adverse to the United States in the lands, minerals and other things underlying the Gulf of Mexico, lying more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Texas, and has not accounted to the United States for all or any sums of money derived therefrom after June 5, 1950.

VIII

The original jurisdiction of this Court is invoked because the Court, after consideration of representations of the State of Texas as *amicus curiae,* by its order of June 24, 1957, declared that the issues in the First Cause of Action are so related to the possible interests of Texas in the subject matter of the suit that the just, orderly and effective determination of such issues requires that they be adjudicated in a proceeding in which all the interested parties are before the Court. The Court by said order allowed Texas 60 days within which to intervene and, if it failed to do so, allowed the United States 60 days thereafter within which to add Texas as a party. Texas has not intervened, and the 60 days allowed it for doing so have expired.

446975—57——2

THIRD CAUSE OF ACTION

(Against the State of Mississippi)

I

The jurisdiction of this Court is invoked under Article III, Section 2, Clause 2, of the Constitution of the United States, Title 28, United States Code, Section 1251 (b) (2), and this Court's order entered in this case on June 24, 1957.

II

On June 5, 1950, the United States was and, except as set forth in Paragraph III hereof, has ever since been and now is entitled to exclusive possession of and full dominion and power over the lands, minerals and other things underlying the Gulf of Mexico, extending seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Mississippi to the edge of the continental shelf; and the State of Mississippi did not have on June 5, 1950, and, except as set forth in Paragraph III hereof, has never since had and does not now have any title thereto or property interest therein.

III

On May 22, 1953, by Public Law 31 of the 83rd Congress, known as the Submerged Lands Act, 67 Statutes at Large 29, the United States granted to the State of Mississippi the title to and ownership of the submerged lands and natural resources lying in the Gulf of Mexico within the boundaries of said State, but not extending seaward more than three geographic miles from the ordinary low-water mark or from the outer

limit of inland waters unless the boundary of said State as it existed when the State became a member of the Union, or as approved by Congress, extended more than three geographic miles therefrom, and not extending seaward more than three marine leagues therefrom in any event; and by said Act the United States released its claim for money or damages arising out of any operations by the State of Mississippi or under its authority in the area so granted.

IV

When the State of Mississippi became a member of the Union its boundary did not extend into the Gulf of Mexico more than three geographic miles from the ordinary low-water mark or from the outer limit of inland waters, and the Congress of the United States has never approved a boundary for said State extending into the Gulf of Mexico more than three geographic miles from the ordinary low-water mark or from the outer limit of inland waters.

V

By reason of the foregoing, the United States is now entitled to exclusive possession of and full dominion and power over the lands, minerals and other things underlying the Gulf of Mexico, lying more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Mississippi, extending seaward to the edge of the continental shelf, and is entitled to an accounting for all sums of money derived therefrom by the State of Mississippi after June 5, 1950.

VI

The State of Mississippi claims some right, title or interest adverse to the United States in the lands, minerals and other things underlying the Gulf of Mexico, lying more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Mississippi, and has not accounted to the United States for all or any sums of money derived therefrom after June 5, 1950.

VII

The original jurisdiction of this Court is invoked because the Court by its order of June 24, 1957, declared that the issues in the First Cause of Action are so related to the possible interests of Mississippi in the subject matter of the suit that the just, orderly and effective determination of such issues requires that they be adjudicated in a proceeding in which all the interested parties are before the Court. The Court by said order allowed Mississippi 60 days within which to intervene and, if it failed to do so, allowed the United States 60 days thereafter within which to add Mississippi as a party. Mississippi has not intervened, and the 60 days allowed it for doing so have expired.

FOURTH CAUSE OF ACTION

(Against the State of Alabama)

I

The jurisdiction of this Court is invoked under Article III, Section 2, Clause 2, of the Constitution of

the United States, Title 28, United States Code, Section 1251 (b) (2), and this Court's order entered in this case on June 24, 1957.

II

On June 5, 1950, the United States was and, except as set forth in Paragraph III hereof, has ever since been and now is entitled to exclusive possession of and full dominion and power over the lands, minerals and other things underlying the Gulf of Mexico, extending seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Alabama to the edge of the continental shelf; and the State of Alabama did not have on June 5, 1950, and, except as set forth in Paragraph III hereof, has never since had and does not now have any title thereto or property interest therein.

III

On May 22, 1953, by Public Law 31 of the 83rd Congress, known as the Submerged Lands Act, 67 Statutes at Large 29, the United States granted to the State of Alabama the title to and ownership of the submerged lands and natural resources lying in the Gulf of Mexico within the boundaries of said State, but not extending seaward more than three geographic miles from the ordinary low-water mark or from the outer limit of inland waters unless the boundary of said State as it existed when the State became a member of the Union, or as approved by Congress, extended more than three geographic miles therefrom, and not extending seaward more than three marine

leagues therefrom in any event; and by said Act the United States released its claim for money or damages arising out of any operations by the State of Alabama or under its authority in the area so granted.

IV

When the State of Alabama became a member of the Union its boundary did not extend into the Gulf of Mexico more than three geographic miles from the ordinary low-water mark or from the outer limit of inland waters, and the Congress of the United States has never approved a boundary for said State extending into the Gulf of Mexico more than three geographic miles from the ordinary low-water mark or from the outer limit of inland waters.

V

By reason of the foregoing, the United States is now entitled to exclusive possession of and full dominion and power over the lands, minerals and other things underlying the Gulf of Mexico, lying more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Alabama, extending seaward to the edge of the continental shelf, and is entitled to an accounting for all sums of money derived therefrom by the State of Alabama after June 5, 1950.

VI

The State of Alabama claims some right, title or interest adverse to the United States in the lands, minerals and other things underlying the Gulf of Mexico, lying more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Alabama, and has not accounted to the United States for all or any sums of money derived therefrom after June 5, 1950.

VII

The original jurisdiction of this Court is invoked because the Court by its order of June 24, 1957, declared that the issues in the First Cause of Action are so related to the possible interests of Alabama in the subject matter of the suit that the just, orderly and effective determination of such issues requires that they be adjudicated in a proceeding in which all the interested parties are before the Court. The Court by said order allowed Alabama 60 days within which to intervene and, if it failed to do so, allowed the United States 60 days thereafter within which to add Alabama as a party. Although Alabama has intervened pursuant to said order, this amendment to the original complaint is necessary in order that the claim and the subject matter of the claim of the United States against Alabama may properly be before the Court.

Fifth Cause of Action

(Against the State of Florida)

I

The jurisdiction of this Court is invoked under Article III, Section 2, Clause 2, of the Constitution of the United States, Title 28, United States Code, Section 1251 (b) (2), and this Court's order entered in this case on June 24, 1957.

II

On June 5, 1950, the United States was and, except as set forth in Paragraph III hereof, has ever since been and now is entitled to exclusive possession of and full dominion and power over the lands, minerals and other things underlying the Gulf of Mexico, Straits of Florida and Atlantic Ocean, extending seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Florida to the edge of the continental shelf; and the State of Florida did not have on June 5, 1950, and, except as set forth in Paragraph III hereof, has never since had and does not now have any title thereto or property interest therein.

III

On May 22, 1953, by Public Law 31 of the 83rd Congress, known as the Submerged Lands Act, 67 Statutes at Large 29, the United States granted to the State of Florida the title to and ownership of the submerged lands and natural resources lying in the Gulf of Mexico, Straits of Florida and Atlantic

Ocean within the boundaries of said State, but not extending seaward more than three geographic miles from the ordinary low-water mark or from the outer limit of inland waters unless the boundary of said State as it existed when the State became a member of the Union, or as approved by Congress, extended more than three geographic miles therefrom into the Gulf of Mexico, and not extending seaward more than three marine leagues therefrom into the Gulf of Mexico in any event; and by said Act the United States released its claim for money or damages arising out of any operations by the State of Florida or under its authority in the area so granted.

IV

When the State of Florida became a member of the Union its boundary did not extend into the Gulf of Mexico, Straits of Florida or Atlantic Ocean more than three geographic miles from the ordinary low-water mark or from the outer limit of inland waters, and the Congress of the United States has never approved a boundary for said State extending into the Gulf of Mexico, Straits of Florida or Atlantic Ocean more than three geographic miles from the ordinary low-water mark or from the outer limit of inland waters.

V

By reason of the foregoing, the United States is now entitled to exclusive possession of and full dominion and power over the lands, minerals and other things underlying the Gulf of Mexico, Straits of Florida and Atlantic Ocean, lying more than three geographic

miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Florida, extending seaward to the edge of the continental shelf, and is entitled to an accounting for all sums of money derived therefrom by the State of Florida after June 5, 1950.

VI

The State of Florida claims some right, title or interest adverse to the United States in the lands, minerals and other things underlying the Gulf of Mexico, Straits of Florida and Atlantic Ocean, lying more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Florida, and has not accounted to the United States for all or any sums of money derived therefrom after June 5, 1950.

VII

The original jurisdiction of this Court is invoked because the Court by its order of June 24, 1957, declared that the issues in the First Cause of Action are so related to the possible interests of Florida in the subject matter of the suit that the just, orderly and effective determination of such issues requires that they be adjudicated in a proceeding in which all the interested parties are before the Court. The Court by said order allowed Florida 60 days within which to intervene and, if it failed to do so, allowed the United States 60 days thereafter within which to add Florida as a party. Florida has not intervened, and the 60 days allowed it for doing so have expired.

WHEREFORE, the United States prays that the defendants be required to answer this amended complaint within 30 days and that a decree be entered declaring the rights of the United States as against said States in the lands, minerals and other things underlying the Gulf of Mexico, Straits of Florida and Atlantic Ocean, lying more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on their respective coasts and extending seaward to the edge of the continental shelf, enjoining said States and all persons claiming under them from interfering with the rights of the United States therein, and requiring said States to account for all sums of money derived therefrom after June 5, 1950.

J. LEE RANKIN,
Solicitor General.

STATEMENT WITH RESPECT TO AMENDED COMPLAINT

By its order of June 24, 1957, the Court granted leave to the States of Texas, Mississippi, Alabama and Florida to intervene within 60 days and, if they failed to do so, granted leave to the United States to add them as parties. 354 U. S. 515. The Attorney General of Texas wrote to the Clerk of the Court on July 23, 1957, saying that Texas did not intend to intervene, because of its belief that there is no justiciable controversy between it and the United States, or between it and Louisiana, concerning either the submerged lands off the coast of Louisiana or the submerged lands off the coast of Texas, and that the

evidence as to the extent of Texas' ownership in the Gulf of Mexico is so different from that relating to other States that any controversy on the question should be heard in a separate suit. The Attorney General of Florida wrote to the Clerk of the Court on August 1, 1957, saying that Florida did not intend to intervene, because doing so might amount to bringing an unauthorized suit against the United States, and because such intervention would be unnecessary since the Solicitor General had indicated that the United States would seek to join all the Gulf States in any event. The Attorney General of Mississippi wrote to the Clerk of the Court on August 12, 1957, saying that Mississippi did not intend to intervene, because such intervention would unnecessarily encumber the pleadings, since the Solicitor General had indicated that the United States would seek to join all the Gulf States in any event. Those States having thus failed to intervene, the United States now seeks to join them as defendants, as provided by the Court's order of June 24, 1957 (as amended by the order of October 22, 1957).

On August 15, 1957, the "Intervention of the State of Alabama with Supporting Brief" was filed in this case, pursuant to the Court's order of June 24, 1957. However, it appears that such intervention cannot properly bring before the Court the controversy between the United States and Alabama regarding the submerged lands off the coast of Alabama, since those lands are not included in the subject matter of the original complaint of the United States against the State of Louisiana, and Congress has not consented

that the United States be sued with respect to them. Consequently, we have joined Alabama, along with the non-intervening Gulf States, as a defendant in the amended complaint, to effectuate the Court's purpose that the controversies between the United States and all the Gulf States be presented in this single proceeding.

In the Fifth Cause of Action, against Florida, we have included the submerged lands of the Straits of Florida and the Atlantic Ocean as well as the Gulf of Mexico, although this may go beyond the Court's purpose of considering together all claims regarding the Gulf of Mexico. Our reason for doing so is to preclude possible future assertion that our claim as to submerged lands off all the coasts of Florida constitutes a single cause of action, which would be waived as to any portion not included in the present suit. *Barnett* v. *Mayes,* 43 F. 2d 521, 528–529 (C. A. 10); *Maguire* v. *Cunningham,* 64 Cal. App. 536, 542, 222 Pac. 838; *Kline* v. *Stein,* 46 Wash. 546, 90 Pac. 1041; see *Thompson* v. *Gaudette,* 148 Me. 288, 299, 92 A. 2d 342; *Pennie* v. *Hildreth,* 81 Cal. 127, 130–131, 22 Pac. 398; cf. *Rodman* v. *Rogers,* 109 F. 2d 520 (C. A. 6); *Doak* v. *Mammoth Copper Mining Co.,* 192 Fed. 748 (C. C. N. D. Cal.); *Beronio* v. *Southern Pac. R. Co.,* 86 Cal. 415, 24 Pac. 1093. See 1 C. J. S. 1339, Actions § 105.

Respectfully,

J. Lee Rankin,
Solicitor General.

November 1957.

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FILED
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JOHN T. FEY, Clerk

No. 10 ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, [redacted] 1958

UNITED STATES OF AMERICA ..... Plaintiff

vs.

STATES OF LOUISIANA, TEXAS, MISSISSIPPI, ALABAMA AND FLORIDA

SEPARATE ANSWER OF THE STATE OF MISSISSIPPI TO AMENDED COMPLAINT

JOE T. PATTERSON
Attorney General
New Capitol Building
Jackson, Mississippi

JOHN H. PRICE, JR.
Assistant Attorney General
New Capitol Building
Jackson, Mississippi

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1957

No. 11 ORIGINAL

UNITED STATES OF AMERICA ..... Plaintiff

vs.

STATES OF LOUISIANA, TEXAS, MISSISSIPPI, ALABAMA AND FLORIDA

SEPARATE ANSWER OF THE STATE OF MISSISSIPPI TO AMENDED COMPLAINT

Now comes the State of Mississippi, one of the defendants in the above entitled and numbered cause, by its Attorney General, and, for its separate answer to that portion of the amended complaint of the plaintiff which refers to and concerns this defendant and which is designated in said amended complaint as "Third Cause of Action (against the State of Mississippi)," says:

I.

The State of Mississippi admits the allegations contained in Paragraph I, Third Cause of Action, of said amended complaint.

II.

The State of Mississippi denies the allegations contained in Paragraph II, Third Cause of Action, of said amended complaint, except insofar as the allegation that the United States had possession of and dominion and power over the lands, minerals and other things under-

lying the Gulf of Mexico from the ordinary low-water mark and from the outer limits of inland waters on the coast of Mississippi to the edge of the continental shelf, "except as set forth in Paragraph III", when construed with the Submerged Lands Act of Congress, 67 Statutes at Large 29, Section 2 (b) and (c), Section 3 (a) and (b), quitclaiming to Gulf Coastal States a maximum of three marine leagues from Coast, within historic State boundaries, and the Act of Congress which admitted Mississippi as a State into the Union and fixed its gulfward boundary at six leagues from shore in the Gulf of Mexico on December 10, 1817, must be taken as an admission by plaintiff that the defendant, State of Mississippi, is the owner and is entitled to exclusive possession of all said submerged lands, minerals and other things underlying the Gulf of Mexico, within three marine leagues from said State's coast line, which is admitted.

III.

Said Submerged Lands Act recognized, confirmed and established title to and ownership of the submerged lands and resources in said defendant State, and "released and relinquished" unto said State "all right, title and interest of the United States, if any it has" thereto within said State's boundary as it existed at the time it became a member of the Union, or as approved by Congress, within three marine leagues from its coast line into the Gulf of Mexico, which three marine leagues from coast so quitclaimed is within the six leagues from shore limits of the gulfward boundary of the State of Mississippi as it existed when said State became a member of the Union. The State of Mississippi admits the allegations contained in Paragraph III, Third Cause of Action, of said amended complaint which are not in conflict with the above statement contained in this para-

graph, but denies all allegations therein contained in conflict with said above statement.

IV.

The State of Mississippi denies the allegations of Paragraph IV, Third Cause of Action, of the amended complaint, and, further answering, avers and says that it was admitted as a State into the Union by Act of Congress, 3 Statutes at Large 472, exercising the exclusive authority granted to Congress under Article IV, Section 3, Constitution of the United States to admit new states into the Union and to fix their boundaries, which said Act of Congress admitted the State of Mississippi into the Union on December 10, 1817, and fixed the boundaries of the State of Mississippi by reference to the Enabling Act of March 1, 1817, 3 Statutes at Large 348, as follows:

> "That the said state shall consist of *all the territory included within the following boundaries*, to-wit:
>
> Beginning on the river Mississippi at the point where the southern boundary line of the state of Tennessee strikes the same, thence east along the said boundary line to the Tennessee river, thence up the same to the mouth of Bear Creek, thence by a direct line to the north-west corner of the county of Washington, thence due south to the Gulf of Mexico, thence westwardly, *including all the islands within six leagues of the shore*, to the most eastern junction of Pearl river with Lake Borgne, thence up said river to the thirty-first degree of north latitude, thence west along the said degree of latitude to the Mississippi river, thence up the same to the beginning." (Emphasis supplied).

That the original Constitution of the State of Mississippi, adopted in the year 1817, prior to its admission as a State into the Union, which said Constitution was

approved by Congress by the act of admitting said State into the Union, described the boundaries of the said State of Mississippi in the following manner, to-wit:

> "We, the representatives of the people inhabiting the western part of the Mississippi Territory, *contained within the following limits,* to-wit: Beginning on the river Mississippi at the point where the southern boundary line of the state of Tennessee strikes the same; thence east along the said boundary line to the Tennessee River; thence up the same to the mouth of Bear Creek; thence, by a direct line, to the north-west corner of the county of Washington; thence due south to the Gulf of Mexico; thence westwardly, *including all islands within six leagues of the shore,* to the most eastern junction of Pearl River with Lake Borgne; thence up said river to the thirty-first degree of north latitude; thence west along the said degree of latitude to the Mississippi River, thence up the same to the beginning." (Emphasis supplied).

That, therefore, when said State of Mississippi became a member of the Union, and prior thereto, its boundary extended six leagues from shore into the Gulf of Mexico, which gulfward boundary exceeds the maximum of three marine leagues from its coast line as provided for under the Submerged Lands Act of Congress, 67 Statutes at Large 29, and further that the boundaries of said State as designated at the time it became a member of the Union as aforesaid have not been diminished since that time.

V.

The State of Mississippi denies the allegations contained in Paragraph V, Third Cause of Action, of said amended complaint to the effect that the United States is entitled to an accounting for all sums of money derived

from the lands, minerals and other things underlying the Gulf of Mexico, lying more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Mississippi, extending seaward to the edge of the Continental Shelf by said State of Mississippi, after June 5, 1950, and further denies that the United States is entitled to an accounting for any period of time and in any sum whatsoever from said State of Mississippi. The State of Mississippi further denies the allegations of said Paragraph V insofar as the United States claims that it is entitled to exclusive possession of and full dominion and power over the lands, minerals and other things underlying the Gulf of Mexico, lying within three marine league from the coast line of the State of Mississippi. Except as herein specifically denied, the State of Mississippi admits the allegations of said Paragraph V.

VI.

The State of Mississippi admits the allegation contained in Paragraph VI, Third Cause of Action, of the amended complaint to the effect that it has not accounted to the United States for all or any sums of money derived from the lands, minerals and other things underlying the Gulf of Mexico, lying more than three geographic miles seaward from the ordinary low-water mark and from the outer limit of inland waters on the coast of Mississippi, and, answering further, denies that it has any legal or equitable duty to account to the United States for all or any sums of money derived from the lands, minerals and other things so situated as aforesaid. The State of Mississippi denies the other allegations contained in said Paragraph VI, Third Cause of Action, and avers and says that the State of Mississippi claims

and exercises its right, title and interest in the lands, minerals and other things underlying the Gulf of Mexico included within its gulfward boundary as it existed at the time said State became a member of the Union, as shown in Paragraph IV above, lying within three marine leagues from its coast line, under the provisions of said Submerged Lands Act of Congress, and as referred to in the outer Continental Shelf Lands Act, 67 Statutes at Large 462, which said Submerged Lands Act specifically acknowledged and confirmed in the State of Mississippi ownership of the submerged lands and resources beneath its navigable waters as defined in Section 2 of said Submerged Lands Act, within three marine leagues from its coast line into the Gulf of Mexico as designated and defined in accordance with applicable Acts of Congress, and the claim made herein on behalf of the United States adverse to such right, title or interest of the defendant, State of Mississippi, is in conflict with and in violation of the above applicable Acts of Congress and provisions of the Constitution of the United States.

VII.

The State of Mississippi admits the allegations contained in Paragraph VII, Third Cause of Action, of the amended complaint. Answering further, however, the State of Mississippi denies any allegations contained in said First Cause of Action against the State of Louisiana which are opposed to or in conflict with the claims and contentions of the State of Mississippi contained in this answer, whether explicitly or by inference, and particularly denies the plaintiff's allegations found in Paragraph IX of said First Cause of Action that the "fundamental question in issue is the width of the marginal sea within the jurisdiction of the United States, which involves inquiry into and application of the foreign policy

of the United States," and, on the contrary, avers and says that the issues herein are wholly internal matters, the Congress and the President of the United States having declared, and no other nation having challenged or here challenging, the extent of the boundaries of the United States.

VIII.

Answering further, in the alternative, the State of Mississippi avers and says that in the event its said primary contention that its territorial boundary extends three marine leagues from its coast line into the Gulf of Mexico and that it is the owner and holder of title to the lands underlying said Gulf of Mexico within three marine leagues from its said coast line and the natural resources within said lands and waters should not prevail, then it is the alternative position of the State of Mississippi that at least it is the owner of or has the right to the natural resources within said area under the provisions of said Submerged Lands Act, with the exclusive right of management, administration, leasing, use and development of such lands and natural resources, including the exclusive right to explore for and extract such natural resources from said submerged lands.

IX.

The State of Mississippi makes no answer to the First, Second, Fourth and Fifth Causes of Action contained in said amended complaint of the plaintiff herein since said named Causes of Action are directed solely and exclusively against the States of Louisiana, Texas, Alabama and Florida, respectively, and none of said Causes of Action are directed against or in any way involve the State of Mississippi.

WHEREFORE, the State of Mississippi prays that the demands of plaintiff be rejected and that judgment be rendered herein in favor of said State of Mississippi decreeing that said State has exclusive title to and ownership of the lands beneath navigable waters within three marine leagues from its coast line into the Gulf of Mexico and the natural resources within such lands and waters, as provided in said Submerged Lands Act, 67 Statutes at Large 29.

In the alternative, in the event its prayer contained in the next preceding paragraph does not prevail, the State of Mississippi prays that this Honorable Court decree that said State at least is the owner of or has the right to the natural resources within said area, with the exclusive right of management, administration, leasing, use and development of such lands and natural resources, including the exclusive right to explore for and extract such natural resources from said submerged lands.

In the event it is mistaken in the relief prayed for, the defendant, State of Mississippi, prays for such other, further, different or more general relief as the Court may deem meet and proper.

JOE T. PATTERSON,
Attorney General of Mississippi

JOHN H. PRICE, JR.
Assistant Attorney General

December 1957.

PROOF OF SERVICE

I, Joe T. Patterson, Attorney General of the State of Mississippi, and a member of the bar of the Supreme Court of the United States, hereby certify that on the ____ day of December, 1957, I served copies of the foregoing answer to Amended Complaint on the several parties to said cause, as follows:

(1) On the United States, by mailing copies in duly addressed envelopes, with air mail postage prepaid, to the Attorney General and the Solicitor General of the United States, respectively, at the Department of Justice Building, Washington 25, D. C., and

(2) On the States of Texas, Louisiana, Alabama and Florida, by mailing copies in duly addressed envelopes, with air mail postage prepaid, to their respective Attorneys General at their respective addresses as follows: Capitol Building, Austin, Texas; Capitol Building, Baton Rouge, Louisiana; Judicial Building, Montgomery, Alabama; and Capitol Building, Tallahassee, Florida.

JOE T. PATTERSON
Attorney General of Mississippi